

FILED IN CLERK'S OFFICE
U.S.D.C. Atlanta

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

OCT 14 2010

THE FLAG COMPANY, INC. a
Georgia Corporation,
Plaintiff,

v.

STEVEN A CHAN, LLC (d/b/a FIVE
STAR FLAGS and/or VIA5), a
California Limited Liability Company,
and STEVEN A. CHAN, a California
resident,
Defendant

JAMES N. HATTEN, CLERK

CIVIL ACTION NO: 1:09-CV-1880
By: [Signature] Deputy Clerk

REQUEST FOR JUDICIAL NOTICE
OF REAL ESTATE DICTIONARY
DEFINITIONS OF FARM, FARMING,
AND FARM AREA

**REQUEST FOR JUDICIAL NOTICE OF REAL ESTATE DICTIONARY
DEFINITIONS OF FARM, FARMING, AND FARM AREA**

Defendant Steven A Chan ("Chan") requests that the court take judicial notice of the following dictionary definition articles.

Exhibit Label on copy	Exhibit Description
6000	Article: 'farm area,' in The Complete Real Estate Encyclopedia, by Denise L Evans, JD & O William Evans, PUBLISHED in 2007.
6001	Article: 'farming,' in The Allen and Wolfe Illustrated Dictionary of Real Estate by Robert D. Allen & Thomas E. Wolfe, published in 1983.
6002	Article: 'farm,' in The Illustrated "Dictionary of Real Estate and Appraisal by Henry S. Harrison & Julie S Harrison, published in 1983.

REQUEST FOR JUDICIAL NOTICE OF REAL ESTATE DICTIONARY
DEFINITIONS OF FARM, FARMING, AND FARM AREA

Two 1983 dictionary excerpts are included, one that contain definitions for the words 'farm', and 'farming.' Also included is a 2007 dictionary excerpt containing the definition for the two word combination 'farm area.'

The definitions are submitted as proof of the meaning of the words 'farming', 'farm area' and 'farm' to the relevant consuming public in this action, namely, real estate brokerage professionals.

A copy of each of these three dictionary pages containing these is included in the docket 56, #8. This consists of three pages, one for each definition defined above.

The FIRST real estate dictionary item, published in 2007, defines:

Farming area – A specific geographic area or condominium complex receiving intense marketing efforts from a real estate agent in order to obtain listings. The agent specializes in the area, learning everything there is to know . Over time, communities will always have agents identified with particular parts of town, such as "Myra the lake lady" or "Lyman the land man."

The SECOND real estate dictionary item, published in 1983, *six years before Plaintiff's formation* or their claims to have 'coined' "farming flags," defines:

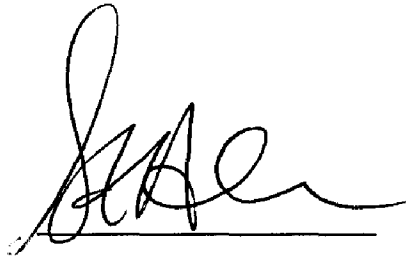
Farming. A real estate agency cultivates a particular residential area for possible representation of clients who wish to sell their property.

REQUEST FOR JUDICIAL NOTICE OF REAL ESTATE DICTIONARY
DEFINITIONS OF FARM, FARMING, AND FARM AREA

The THIRD real estate dictionary item, also published in 1983, *six years before Plaintiff's formation* or their claims to have 'coined' "farming flags," defines:

FARM 1. Land used to grow crops. 2. Land used in raising dairy products or certain fish or animals. 3. The physical area in which a real estate brokerage concentrates its business efforts. The brokerage tries to become well known in this area so sellers and buyers will seek them out when the need the services of a real estate broker or salesperson.

Respectfully submitted the 8th of October, 2010

A handwritten signature in black ink, appearing to read 'SAC', written over a horizontal line.

Steven A Chan

American flag manufacturer

Five Star Flags

720 Center St

Costa Mesa, CA 92627

REQUEST FOR JUDICIAL NOTICE OF REAL ESTATE DICTIONARY
DEFINITIONS OF FARM, FARMING, AND FARM AREA

Local Rule 7.1D Certification

I hereby certify that this brief has been prepared with one of the font and point selections approved by the court in Local Rule 5.1C, namely, Times New Roman, 14 point.

A handwritten signature in black ink, appearing to read 'S. Chan', is written over a horizontal line.

Steven A Chan

American flag manufacturer

Five Star Flags

720 Center St

Costa Mesa, CA 92627

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
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THE FLAG COMPANY, INC. a
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California Limited Liability Company,
and STEVEN A. CHAN, a California
resident,
Defendant

CIVIL ACTION NO:
1:09-CV-1880

CERTIFICATE OF SERVICE

This is to certify that I have this day filed the foregoing REQUEST FOR JUDICIAL NOTICE OF REAL ESTATE DICTIONARY DEFINITIONS OF FARM, FARMING, AND FARM AREA with the Clerk of the Court by placing it in an overnight delivery package and sending it. The Clerk of the Court will use the CM/ECF system to automatically send e-mail notification of such filing to the following attorneys or record:

J Tucker Barr

Arnall Golden Gregory LLP

171 17th Street, N.W. Suite 2100

Atlanta, GA 30363

Email: tucker.barr@agg.com

[signature follows on following page]

Page 1

Dated this 12th day of October, 2010

A handwritten signature in black ink, appearing to read 'S. Chan', written over a horizontal line.

Steven A Chan

American flag manufacturer

Five Star Flags

720 Center St

Costa Mesa, CA 92627

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JAMES N. HATTEN, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DECLARATION OF HAROLD THOMPSON

Harold Thompson, and declares as follows:

1. I am Harold Thompson.
2. The testimony I give in this declaration is based on personal knowledge.
3. I am a real estate agent and broker. I have been licensed by the state of Alabama Department of Real Estate since 1972
4. I am presently self-employed and manage my personal real estate investment portfolio, in Birmingham, Alabama.
5. I am familiar with terms "farm," "farming," "farm flags," and "farming flags," as they are used by Realtors. In fact, "farming flags" is a term used in the late 1970's or the early 1980's to describe the flags used in a marketing practice that was 1st developed in California and that is now used throughout the industry
6. I have taken many classes in real estate since embarking on my career. I have also taught many classes. I have owned my own real estate business.
7. Among realtors, a "farm" is a descriptive term. It means your market. It is a definition of the communities and neighborhoods of the homes you and your office sell. For example, if I sell homes along a two

block area along Memorial Boulevard, my farm is that two block area along Memorial. The term "farming" is used by Realtors to describe marketing efforts within your "farm."

8. Realtors often employ giveaways when they are "farming" or marketing themselves. Some may giveaway notepads and pens, others kitchen oven mitts. These 'farming tools' also includes things like post cards, or even 'just sold' newsletters or e-mails. When realtors employ an item as a farming tool, they name the item a "farming" pumpkin, flower seed, sugar cane, postcard, pen, oven mitt, or memory stick, etc.

9. I first heard realtors and motivators use the terms "farm" and "farming" in real estate courses and seminars I took way back in the late 1970's, during my first years in the business. In my coursework, the terms were used then as they are now to describe marketing.

10. "Farming" is a descriptive term in the real estate business. It describes your marketing efforts and techniques. It is term that has been used by realtors since I first got involve in this business in 1972, and it is used throughout the industry for this same purpose even today.

11. As a realtor, I do not understand "farming flags" or "farm flags" to refer to a specific brand of little American flags. I understand these terms are generic. They refer any little American flag from any

manufacturer ... any brand.


12. Realtors do not understand "farming flags" or "farm flags" to refer to a specific brand of little American flags. They understand these terms are generic. They refer to any little American flag from any manufacturer ... any brand.

13. In some of the annual tradition of farming with flags that I started in 1986, I personally planted the flags in the ground. My kids helped, as did their neighborhood friends. In some years, we did it around Memorial Day, others just before the 4th of July.

14. Between 1986 and 2010, I oversaw the distribution of over 70,000 flags in the Birmingham area. I am known as 'The Flag Man'. I am also known as 'The Pumpkin Man' because I used to farm with pumpkins.

15. After I began farming with small American flags, I knew others that also used farming flags. Everyone in my office knew I did it. My competitors knew I did it. Those of us that used farming flags were well known in our profession for doing so.

I declare under penalty of perjury that the forgoing is true and correct.
June 30, 2010



Harold Thompson
5588 Apple Park Drive
Suite 101
Birmingham, Alabama 35235
FAX : (205) 856-8788
C P : (205) 567-2197
OFF : (205) 856-5050

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DECLARATION OF
JAMES N. HARTMAN, Clerk
BY [Signature]

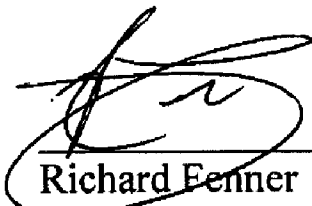
DECLARATION OF Richard Fenner

COMES NOW Richard Fenner, and declares as follows:

1. My name is Richard Fenner.
2. I am over the age of 18 and have personal knowledge of the facts herein.
3. I am a state-licensed real estate professional, and reside in the state of California. In 1984, I was licensed to sell real estate in California.
4. I am employed by First Team Real Estate, in Irvine, California; I have been with them continuously since 1984.
5. In 1986, as part of my marketing activities, I purchased miniature American flags and distributed them in my marketing territory.
6. When I heard the term 'farming flag', I understood it to designate miniature US flags.
7. To me, 'farming flag' does not refer to a single source of the product, but rather the miniature US flags themselves.

I declare under penalty of perjury that the forgoing is true and correct to the best of my knowledge and belief.

June 21, 2010


Richard Fenner

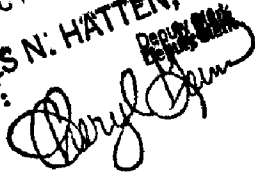
First Team

Real Estate

4040 Barranca Parkway

Suite 100

Irvine, Ca 92604

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OCT 14 2010
JAMES N. HATTEN, CLERK
By: 

DECLARATION OF HAROLD CRYE

COMES NOW Harold Crye and declares as follows:

1. I am Harold Crye. I am over 18 years of age.
2. I founded Crye-Leike, Realtors, with Dick Leike, in 1977. Today, Crye-Leike has over 3500 residential real estate brokerage professionals across many states.
3. When the words "farm", "farms", "farming" are spoken within the residential real estate brokerage professionals here at Crye-Leike, we are using jargon, or trade terms, referring to basic professional activities, broadly known and referring to concepts of 'territories' and 'marketing tactics'.
4. The fact stated in paragraph 3 above, was true during the period 1978-2004.

DECLARATION OF HAROLD CRYE

1 5. Farming with miniature USA flags is a nationwide tradition practiced by
2 the real estate brokerage industry.

3 6. Crye-Leike Realtors started this tradition in the Memphis area in 1978.
4 and by 2004, this tradition had run for 26 consecutive years.

5 7. Members of our team distributed the flag of the United States in
6 neighborhoods where they otherwise also marketed, during this period.

7 8. From 1978 to 1989, the term 'farming flag', when spoken of or referred to
8 amongst our professional team members, was commonly understood. It refers to a
9 miniature flag of the United States when used in the pervasive, and famous,
10 industry practice of 'farming with the US flag'.
11

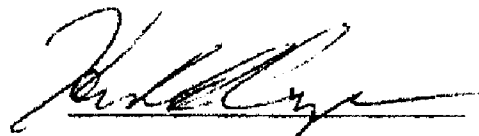
12 9. From 1989 to 1994, the term 'farming flag', when spoken of or referred
13 to, amongst our professional team members, was commonly understood. It refers
14 to a miniature flag of the United States when used in this pervasive, and famous,
15 industry practice of 'farming with the US flag'.
16

17 10. From 1994 to 2000, the term 'farming flag', when spoken of or referred
18 to, amongst our professional team members, was commonly understood. It refers
19 to a miniature flag of the United States when used in this pervasive, and famous,
20 industry practice of 'farming with the US flag'.
21
22
23

24
25
26 DECLARATION OF HAROLD CRYE

11. I declare, under penalty of perjury, that the foregoing is true and correct to
the best of my personal knowledge and belief.

Dated the 14th of June, 2010



Harold Crye

Crye-Leike, Realtors

DECLARATION OF HAROLD CRYE

DECLARATION OF CAROL RAYBURN

COMES NOW Carol Elaine Rayburn, and declares as follows:

1. I am Carol Elaine Rayburn.

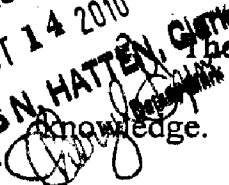
The testimony I give in this declaration is based on personal knowledge.

3. I am a real estate agent and broker. I have been licensed by the state of California's Department of Real Estate since before 1980. I have held a brokers license since June 1996.

4. I am presently employed as a realtor by Century 21 Astro, in Cerritos, California. I am the Broker / Owner of the office. I manage and supervise a team of 6 people and 120 agents.

5. I am familiar with terms "farm," "farming," "farm flags," and "farming flags," as they are used by Realtors. In fact, "farming flags" is a term used from the early 1980's to describe the flags used in a marketing practice that I developed in California and that is now used throughout the industry

6. I have taken many classes in real estate since embarking on my career. I have also taught many classes. I have owned my own real estate business.

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By 

7. Amongst the many awards early in my career is Century 21's Centurion Award, which I received for 10 years consecutively from 1982. Since 1980, I am nearing 300 million dollars in sales volume of real estate.

8. Among realtors, a "farm" is a descriptive term. It means your market area. It is a definition of the communities and neighborhoods of the homes you and your office sell. For example, if I sell homes along a two block area along Cerritos Boulevard, my farm is that two block area along Cerritos. The term "farming" is used by Realtors to describe marketing efforts within your "farm."

9. Realtors often employ giveaways when they are "farming" or marketing themselves. Some may giveaway notepads and pens, others kitchen oven mitts. These 'farming tools' also includes things like post cards, or even 'just sold' newsletters or e-mails. Recently, I have even seen computer memory sticks used for this purpose. When realtors employ an item as a farming tool, they name the item a "farming" postcard, pen, oven mitt, or memory stick.

10. I first heard realtors use the terms "farm" and "farming" in real estate courses I took way back in the late 1970's, during my first years in

the business. In my coursework, the terms were used then as they are now to describe marketing.

11. "Farming" is a descriptive term in the real estate business. It describes your marketing efforts and techniques. It is term that has been used by realtors since I first got involve in this business in 1978, and it is used throughout the industry for this same purpose even today.

12. As a realtor, I do not understand "farming flags" or "farm flags" to refer to a specific brand of little American flags. I understand these terms are generic. They refer any little American flag from any manufacturer ... any brand.

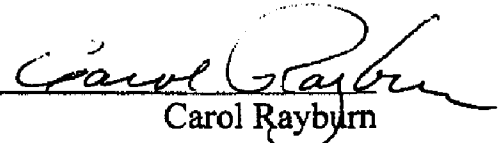
13. Realtors do not understand "farming flags" or "farm flags" to refer to a specific brand of little American flags. They understand these terms are generic. They refer to any little American flag from any manufacturer ... any brand.

14. In some of the annual tradition of farming with flags that I started in 1985, I personally planted the flags in the ground. My kids helped, as did their neighborhood friends. In some years, we did it around Memorial Day, others just before the 4th of July.

15. One of the helpers from those early years in now my son-in-law Mark Anthony Ruiz. He and my daughter learned this business under my tutelage, and are in the business on our team, today.

16. After I began farming with small American flags, I knew others that also used farming flags. Everyone in my office knew I did it. My competitors knew I did it. Those of us that used farming flags were famous in our profession for doing so.

I declare under penalty of perjury that the forgoing is true and correct.
July 7, 2010


Carol Rayburn
Century 21 Astro
11365 183rd Street
Cerritos, California 90703

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OCT 14 2010

JAMES N. HATTEN, Clerk
U.S. District Court
COMMES, NORTON & ASSOCIATES, P.C.

DECLARATION OF SHARON ROSHEK

I, Sharon Roshek, and declares as follows:

1. My name is Sharon Roshek.

2. I am over the age of 18 and have personal knowledge of the facts herein.

3. I am a state-licensed real estate professional, and reside in the state of Colorado. In 1988, I was licensed to sell real estate in Colorado.

4. In 1988, as part of my marketing activities, I purchased miniature American flags and distributed them in my marketing territory.

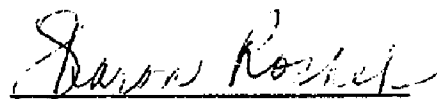
5. I heard the term 'farming flag' for the first time in 1988.

6. I used the term 'farming flag' for the first time in 1988.

7. When I heard the term 'farming flag' in 1988, I understood it to designate miniature US flags.

I declare under penalty of perjury that the forgoing is true and correct to the best of my knowledge and belief.

June 28, 2010



Sharon Roshek
Coldwell Banker, 1st Choice
Realty
18401 E Hwy 24
Woodland Park, CO 80863
(719) 687-0900

DECLARATION OF SHIRAZ ALI PEERA

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U.S.D.C. DISTRICT OF ARIZONA
OCT 14 2010

JAMES N. HATTEN, Clerk
By: [Signature]

I, SHIRAZ ALI PEERA, and declares as follows:

1. I am Shiraz Ali Peera.

2. The testimony I give in this declaration is based on personal knowledge.

3. I am a real estate agent and broker. I have been licensed by the state of Arizona Department of Real Estate since 1979.

4. I am presently employed by Coldwell Banker Residential Brokerage in Tuscon, Arizona. I am a Broker Associate.

5. I am familiar with terms "farm," "farming," "farm flags," and "farming flags," as they are used by Realtors.

6. I started farming in the area I lived and did it for 20 years. I have participated in several seminars on farming. I even wrote an article about farming that was published by the official magazine of the National Association of Realtors.

7. It should be noted that in 1979, the United States embassy staff was seized. They were held hostage for 444 days. In 1979, I distributed 'farming flags' in an area close to our office, as a sign of patriotism. Our office manager issued a press release and the incident was cited in federal papers of that time.

8. Coldwell Banker started, beginning I believe, in 1992 in the Tuscon area, distributing 'farming flags'. In the first two years, there were many who participated in planting flags – 'farming flags', in their farm areas. The third year, I was the ONE left, who continued to plant 1500 flags for tens years every July 4, with my family and friends.

9. We were interviewed by TV Channel 4, and written up in the Arizona Daily Star and the Tuscon Citizen newspapers.

10. Our family promoted patriotism, well before it was customary to do so.

11. I have taken many classes in real estate since embarking on my career. I have also taught many classes. I have been in the real estate business continuously for over 30 years.

12. Among realtors, a "farm" is a descriptive term. It means your market. It is a definition of the communities and neighborhoods of the homes you and your office sell. For example, if I sell homes along a two block area along Prescott Boulevard, my farm is that two block area along Prescott. The term "farming" is used by Realtors to describe marketing efforts within your "farm."

13. Realtors often employ giveaways when they are "farming" or marketing themselves. Some may giveaway notepads and pens, others

kitchen oven mitts. These 'farming tools' also includes things like post cards, or even 'just sold' newsletters or e-mails. When realtors employ an item as a farming tool, they name the item a "farming" postcard, pen, or oven mitt.

14. I first heard realtors use the terms "farm" and "farming" in real estate courses I took way back in **the late 1970's**, during my first years in the business. In my coursework, the terms were used then as they are now to describe marketing.

15. "Farming" is a descriptive term in the real estate business. It describes your marketing efforts and techniques. It is term that has been used by realtors since I first got involve in this business in 1979, and it is used throughout the industry for this same purpose even today.

16. As a realtor, I do not understand "farming flags" or "farm flags" to refer to a specific brand of little American flags. I understand these terms are generic. They refer to any little American flag from any manufacturer ... any brand.

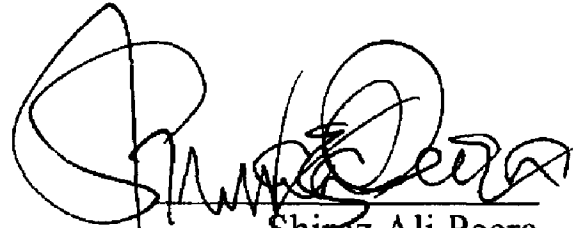
17. Realtors do not understand "farming flags" or "farm flags" to refer to a specific brand of little American flags. They understand these terms are generic. They refer to any little American flag from any manufacturer ... any brand.

18. In some of the annual tradition of farming with flags that I started in 1992, I personally planted the flags in the ground. My kids helped, as did their neighborhood friends. Now that my kids are grown and gone to college, either I do it myself or have to hire crews to help me put them out.

19. Everyone in my office knew I did it. My competitors knew I did it. Those of us that used farming flags were famous in our profession for doing so.

I declare under penalty of perjury that the forgoing is true and correct. I am competent in making the testimony above.

July 1, 2010

A handwritten signature in black ink, appearing to read 'Shiraz Ali Peera', written over a horizontal line.

Shiraz Ali Peera
CRS, CIPS, Broker Associate
Coldwell Banker
Residential Brokerage
2890 E Skyline Dr, Ste 250
Tucson, AZ 85718
Cell: 520-360-4270

SHIRAZALI PEERA

YOUR COLDWELL BANKER EXECUTIVE SALES ASSOCIATE

We'd like to introduce you to your Coldwell Banker Executive Sales Associate. You can count on your Executive Sales Associate to handle every phase of your real estate transaction with the utmost skill, attention to detail and professionalism. For those are among the attributes that elevate Coldwell Banker Sales Associates to the executive level.

Coldwell Banker Executive Sales Associates are an elite group- the very best and most productive members of the finest residential real estate sales team in the business. It takes hard work and dedication to earn the prestigious Executive Sales Associate title. Coldwell Banker does not confer it lightly. And those who do achieve it are aware of the responsibility that goes with the designation.

Your Executive Sales Associate is someone you can talk with about any aspect of buying and selling residential property. Make your wishes known. Discuss your concerns. We want your real estate transaction to be as smooth and rewarding as possible.

You can rely on your COLDWELL BANKER EXECUTIVE SALES ASSOCIATE for outstanding service and professionalism. THEY ARE THE BEST OF THE BEST.

Coldwell Banker is pleased to announce SHIRAZ ALI PEERA has achieved the prestigious honor of Coldwell Banker Executive Sales Associates. This status is bestowed only upon our most productive Sales Associates.

EDUCATION

- 1970- B. Sc., Bowling Green State University, Ohio
- 1978- Arizona Sales License
- 1978- MBA, American Graduate School of International Management, (Thunderbird) Glendale, AZ
- 1979- Arizona Brokers License
- 1983- G.R.I. Graduate Realtors Institute
- 1991- C.R.S. Certified Residential Specialist
- 1998- Certified International Property Specialist. CIPS

Originally from Tanzania, East Africa, SHIRAZ was educated in England and the USA and has been a realtor since 1978. His extensive travels in Africa, the Middle East and Western Europe have enhanced his natural ability to work perceptively with people of diverse backgrounds and requirements.

SHIRAZ has been a member of the Multi-Million Dollar Club since 1979 and was ranked in the top five percent in terms of sales with the largest local company and was also a member of its prestigious President's Club.

By demonstrating a consistently outstanding performance since 1979, SHIRAZ has received numerous other honors in the form of trophies, plaques, citations and commendations in recognition and appreciation by the company of his exemplary accomplishments.

DETERMINATION, INDOMITABLE SPIRIT AND HIGH POWERED PROFESSIONALISM...

... are the words that describe SHIRAZ. As a professional real estate counselor, he always sets high standards and his goal of dedicated and sincere service in dealing honestly with the clients whose trust and respect he has earned in the process. And in doing so, he turns your vision into reality.

SHIRAZ is equally active in civic and community affairs. He was the President Elect and Special Projects Chairman of the Tucson Civitan International Club- an organization closely associated with the Special Olympics. He was also president of the Filipino American Club of Tucson from 1982-1984.

He is a board director of the Pan Asian community Alliance and also a member of the American Asian Faculty Staff Alumni Association.

In December of 1999 he was appointed the President of the Cultural Exchange Council for 3 years, and was awarded the Cultural Exchange Council President's outstanding service award.

He also served 8 years as a member of The Mayor's Community Development Advisory Committee.